

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of Qwest Corporation for)	
Forbearance From Enforcement)	
of the Commission's ARMIS and 492A)	WC Docket No. 07-204
Reporting Requirements Pursuant)	
to 47 U.S.C. § 160(c))	
)	

**COMMENTS OF THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

The Washington Utilities and Transportation Commission ("UTC")¹ submits these comments in response to Qwest Corporation's ("Qwest's") September 13, 2007, petition seeking Federal Communications Commission ("Commission" or "FCC") forbearance from a number of federal regulatory obligations, including several Automated Reporting Management Information System ("ARMIS") and form 492A data reporting requirements. As discussed below, the UTC opposes the petition because, like other state regulatory commissions, it relies extensively on many of these reports in carrying out its responsibility to monitor, report on, and act upon matters within its state statutory authority. While the UTC believes that several reporting requirements could be streamlined, the Commission should consider such changes in a rulemaking proceeding that looks at the industry as a whole, allows a more thorough consideration of the effect on the UTC and other state regulatory agencies that rely on ARMIS information and,

¹ The UTC is the resident agency in the state of Washington with statutory authority over the provision of intrastate telecommunications services by various providers, including Qwest and several other incumbent local exchange carriers.

where appropriate, provides meaningful alternatives to state regulators for obtaining necessary information.

**The UTC Relies Extensively On ARMIS Data
In Fulfilling Its State Regulatory Responsibilities**

Qwest's forbearance efforts are similar to those of other incumbent local exchange carriers that increasingly turn to Section 10 of the Communications Act as a means to sweep away, to varying degrees, a number of important federal regulatory obligations.² Qwest argues that structural changes occurring in the telecommunications industry -- specifically the growth of and competition from wireless Competitive Local Exchange Companies ("CLECs"), cable companies, and Voice Over Internet ("VoIP") providers -- warrant elimination of what it contends are archaic or anachronistic reporting requirements imposed in a rate-of-return era that is waning.

Qwest's arguments miss the mark. Even in the current regulatory environment, ARMIS reports remain a viable and critical tool used by state commissions and their staffs. As discussed below, state regulatory agencies rely on ARMIS reports to monitor carriers' financial condition, service quality, and performance under alternative forms of regulation. While it is true that the rate-of-return regulation era is changing, the information contained in ARMIS reports remains vital to evaluating market conditions,

² Qwest's ARMIS petition is its seventh major forbearance request to the Commission during the past four years. See *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, WC Docket No. 04-223, *Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) From Title II and Computer Inquiry Rules with Respect to Broadband Services*, WC Docket No. 06-125, *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Seattle, Washington Metropolitan Statistical Area*, WC Docket No. 07-97, *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Colorado Metropolitan Statistical Area*, WC Docket No. 07-97, *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, WC Docket No. 07-97, *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Minneapolis-St. Paul, Minnesota Metropolitan Statistical Area*, WC Docket No. 07-97.

service performance, and other operating measures of the dominant telecommunications providers in each state, information upon which the UTC relies in guiding its own deregulatory efforts.

Indeed, in Washington the UTC recently adopted a four-year alternative form of regulation ("AFOR") plan for Qwest based in large measure on the state of competition observed for its residential and business service offerings. Thus, as with the move away from rate-of-return regulation at the federal level, the UTC has moved to reduce regulation where it is assured that market conditions warrant such treatment. While the AFOR plan no longer applies rate-of-return regulation to Qwest's intrastate operations, to a large degree the information contained in ARMIS reports will be used during the course of the plan to monitor and measure critical components of Qwest's operations in Washington State.

Washington has not abandoned rate-of-return regulation for telecommunications carriers, but state law and policy promote regulatory flexibility and offer mechanisms to allow companies to seek reduced regulation. In several proceedings over the past 10 years, Washington has reduced regulation by eliminating unnecessary reporting requirements, granting pricing flexibility, and applying alternative forms of regulation. In each case, the UTC used ARMIS data to understand the evolving nature of the national and state-specific markets, and acted upon the data in granting regulatory changes.

Specifically but not exclusively, the UTC uses ARMIS report data as follows³:

ARMIS Report 43-01, ARMIS Annual Summary Report. Washington state law requires companies to file annual reports.⁴ For telecommunications companies not

classified as competitive, this requirement is implemented by administrative rule, particularly WAC 480-120-385 subsection (1)(c),⁵ which requires Qwest and certain other Class A companies to file with the state annual report forms adopted by the UTC. To comply with this rule, Qwest files the following portions of ARMIS report 43-01⁶:

- Data Certification Statement
- Table I, Cost and Revenue – Class A Account Level Reporting
- Table II, Demand Analysis
- Table III, Pole and Conduit Rental Calculation Information

The data filed is Washington-specific, and is used by the UTC to analyze Qwest cost and revenue data compared to that filed by other Washington Class A companies. UTC Staff also compares data filed for Washington with the publicly-available and consistent data Qwest files with the FCC for its other reporting states.

As mentioned above, Qwest is now subject to an AFOR in Washington for the next four years. The approved AFOR is the result of a UTC order approving a settlement agreement among Qwest, the UTC regulatory staff, and certain other parties.⁷ Under the AFOR, Qwest agreed to file an annual report in accordance with WAC 480-120-385(1) during the four-year AFOR term. The UTC accepted this provision without designing state-specific replacements for FCC reporting because it contemplated that FCC reporting requirements would remain in place during the AFOR term. If the Commission now

³The UTC does not use ARMIS Report 43-06 dealing with Customer Satisfaction, and would not oppose repeal of this requirement if addressed in a comprehensive review of ARMIS reporting requirements.

⁴ RCW 80.04.080.

⁵ WAC 480-120-385 Class A companies that the FCC classified as Tier 1 telecommunications companies in Docket No. 86-182 must file annual report forms adopted by the FCC.

⁶ Qwest also files ARMIS Report 43-02, the ARMIS USOA Report, and ARMIS 43-04, the ARMIS Access Report, to meet the requirements of WAC 480-120-385(1)(c). These two reports will be discussed later in these Comments.

⁷ Docket No. UT-061625, Order 06, *Order Accepting Settlement and Approving Alternative Form of Regulation, on Conditions* (July 24, 2007).

forbears from requiring Qwest to file ARMIS report 43-01, the UTC will likely need to require additional reporting from Qwest in lieu of the 43-01 report.

ARMIS Report 43-02, the ARMIS USOA Report. Qwest files this report as part of its compliance with WAC 480-120-385(1). The tables filed with this report include the following:

- Data Certification Statement
- Important Changes During the Year
- Balance Sheet Accounts
- Statement of Cash Flows
- Investments in Affiliates and Other Companies
- Analysis of Assets Purchased from or Sold to Affiliates
- Analysis of Entries in Accumulated Depreciation
- Summary of Investment and Accumulated Depreciation by Jurisdiction
- Accounts Payable to Affiliates
- Income Statement Accounts
- Analysis of Services Purchased from or Sold to Affiliates
- Special Charges
- Donations for Payments for Services Rendered by Persons Other than Employees

Except for the entries "Important Changes During the Year" and "Summary of Investment and Accumulated Depreciation by Jurisdiction," the report summarizes information for Qwest's entire 14-state region.

Much of the information filed in ARMIS 43-02 is required under Washington's annual report statute, RCW 80.04.080.⁸ Currently, Qwest files information on its

⁸ RCW 80.04.080 states in part: "Every public service company shall annually furnish to the commission a report in such form as the commission may require, and shall specifically answer all questions propounded to it by the commission, upon or concerning which the commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefore and the manner of payment for same, the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debts and the interest paid thereon, the cost and value of the company's property, franchises and equipment, the number of employees and the salaries paid each class, the accidents to employees and other persons and the cost thereof, the amounts expended for improvements each year, how expended and the character of such improvements, the earnings or receipts from each franchise or business and from all sources, the proportion thereof earned from business moving wholly within the state and the proportion earned from interstate business, the operating and other expenses and the proportion of such expense incurred in transacting business wholly within the state, and proportion incurred in transacting

transactions with affiliates in an Annual Report of Affiliated Transactions, filed in compliance with WAC 480-120-395. The total company data filed in this report are similar, but not identical, to data filed in the ARMIS 43-02 report tables "Accounts Payable to Affiliates" and "Analysis of Services Purchased from or Sold to Affiliates." Based on a preliminary review, the UTC would not be harmed by the streamlining or elimination of these specific portions of ARMIS 43-02. The Balance Sheet, Income Statement and Statement of Cash Flows filed in ARMIS 43-02 are required by the UTC. If forbearance is granted for these reports, Qwest would be required to file their equivalent under Washington law.

ARMIS Report 43-03, Joint Cost Report. The Joint Cost Report takes the annual cost and revenue data reported in ARMIS Report 43-01 and shows the assignment of the accounts, at a four-digit account level, between direct, indirect, and generally allocated categories, shows the split of each category between regulated and nonregulated, and reflects adjustments made to the regulated portions to arrive at the costs and revenues that are "subject to separations." The data are filed by study area. UTC Staff reviews the data to monitor changes over time in the regulated-nonregulated allocations, and to compare allocations in Washington with allocations in other states. Being able to perform state-by-state comparisons of these allocations will be an important monitoring tool during the AFOR term. Again, the UTC did not contemplate these reports being

interstate business, such division to be shown according to such rules of division as the commission may prescribe, the balances of profit and loss, and a complete exhibit of the financial operations of the company each year, including an annual balance sheet. Such report shall also contain such information in relation to rates, charges or regulations concerning charges, or agreements, arrangements or contracts affecting the same, as the commission may require; and the commission may, in its discretion, for the purpose of enabling it the better to carry out the provisions of this title, prescribe the period of time within which all public service companies subject to the provisions of this title shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept. Such detailed report shall contain all the required statistics for the period of twelve months ending on the last day of any particular month prescribed by the commission for any public service company. ..."

eliminated when the AFOR settlement was reached and subsequently approved by the Commission.

ARMIS Report 43-04, ARMIS Access Report. This report contains separations data derived using accounting, cost assignments and cost allocations rules set forth in 47 CFR 36. In the Washington Qwest AFOR proceeding, ARMIS data was used in testimony and decision to examine separations and inter/intrastate allocations.⁹ UTC staff also uses data in the ARMIS 43-04 report in tracking the effect of the separations freeze on intrastate and interstate rates of return over time, for individual companies and in comparisons among companies. The elimination of this data for a major Washington carrier such as Qwest would hamper the UTC's ability to meaningfully participate in any future proceedings involving separations reform.

ARMIS Report 43-05 Service Quality. The UTC uses reports of carriers offering service in Washington to compare the quality of service offered by the ILEC in Washington with that offered by the company in other states. Reports of non-dominant carriers in Washington are used for comparison and benchmarking purposes. By comparison, outage reports provide less complete information than this ARMIS report in that they offer no information on installation intervals or trouble report rates.

ARMIS Reports 43-07 Infrastructure. The UTC uses this report, filed only by the largest ILECs (AT&T, Verizon and Qwest) to evaluate the effects of competition and the overall robustness and survivability of the public network in Washington. It is a useful planning tool for setting infrastructure development policies.

In an appropriate proceeding, this report could be modified to remove outdated reporting requirements, such as electro-mechanical switches, and replace them with more

⁹ See testimony of Paula Strain and Robert Loube in UTC Docket UT-061625.

meaningful measures of network capability such as VoIP-based switching information and video services technology.

ARMIS Reports 43-08 Operating Data. The UTC has used data from this report in the analysis of per-line costs for use in cost model proceedings, including the development of costs for wholesale services. ARMIS 43-08 data was also used by the UTC Staff in the development of information estimating the effects of the so-called “Missoula Plan” for intercarrier compensation reform on Washington carriers.¹⁰ The UTC used this because it includes line data by customer type, and therefore allows analysis of shifts among customer types.

The UTC’s use of ARMIS data is not confined to Qwest. While Qwest asserts that the ARMIS requirements only apply to a “small number of ILECS covering a small share of the overall market for telecommunications services,”¹¹ the reality in Washington State is different. In Washington, ARMIS 43-08 filers – which include not only Qwest but also Verizon Northwest Inc. and CenturyTel – combined account for more than 85 percent of the Washington switched access lines¹². As of December 2006, they reported serving more than 3 million special access lines in the state.¹³ In some Washington exchanges, these companies experience very little competition.¹⁴ This is especially true for basic, single line, no frills basic telephone service, which is not routinely offered by competitors such as VoIP providers or cable companies.

¹⁰ Docket No. UT-061284, *Staff Investigation Concerning the Impact of The Missoula Plan (Inter-carrier Compensation) on Telecommunications Companies in Washington State*.

¹¹ Qwest Corrected Petition, page 7, fn 16.

¹² FCC Local Competition Report (Form 477 data) as of June 2006.

¹³ ARMIS Report 43-08, Row 580

¹⁴ FCC Local Competition Report, Zip Codes with CLECs. As of June 2006, 18 of the state’s 99 zip codes had no reported CLECs. Another 31 zip codes were served by one to three CLECs.

The Commission may ultimately determine that the reporting requirements incumbent upon Qwest and similarly situated companies are burdensome or excessive, but it should not undertake such a determination without a careful and complete consideration of the impact of such change upon states' efforts to regulate in the public interest.

ARMIS Information Informs Federal Telecommunications Policy

Qwest takes the position in a footnote that the ARMIS requirements do not benefit the Commission, and that the Commission's authority to adopt accounting and reporting requirements solely to meet the needs of state regulators is "quite limited."¹⁵ We disagree. To be sure, this is not a case of reporting solely for the benefit of states. First, the FCC itself benefits from ARMIS data in monitoring the industry and the impact of current or potential regulation. See, e.g., *Special Access Rates for Price Cap Local Exchange Carriers*, Order and Notice of Proposed Rulemaking, WC Docket No. 05-25, 20 FCC Rcd 1994, 2005 fn. 88 and 2006 (2005). The Commission uses ARMIS data in compiling studies such as *Universal Service Monitoring Reports* and *Statistics of Communications Common Carriers*. Second, the UTC and other state regulatory agencies participate regularly in Commission proceedings, and often the positions they advocate or the analysis they offer is based on data obtained from ARMIS reports. See, e.g., Reply Comments of the UTC on Developing a Unified Inter-carrier Compensation Regime, CC Docket 01-92, filed Jan. 31, 2007; Reply Comments of the UTC on Jurisdictional Separations and Referral to the Federal-State Joint Board, CC Docket No. 80-286, Nov. 17, 2006. Clearly, ARMIS data is critical to the development of sound federal telecommunications policy and regulation. The FCC relies on the same

¹⁵ Qwest Corrected Petition, p. 16, fn. 39.

information that states do when it considers the regulatory structure of the industry, and it continues to need such data as it determines a course of action. So long as Qwest remains the dominant carrier in its 14-state territory, the Commission should not discontinue a ready source of easily analyzed data regarding Qwest's operations and practices in the midst of a major policy evaluation process.

Even if this were a case of the FCC gathering data solely for states, however, it would not support Qwest's call for an immediate disruption of the ARMIS reporting through a grant of forbearance. The Commission has indicated that even if it were to gather data solely for the benefit of states, it rejects "immediate" actions that "could cause severe problems for state regulators." *Local Competition and Broadband Reporting*, Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286 and Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286, 16 FCC Rcd 19911, 19985, para. 207 (2001). Instead, it has sought comment through a comprehensive rulemaking on transitions to limit disruption to state regulators, and on "whether, rather than sunseting these federal requirements, there are other means to reform federal requirements that serve only state regulatory needs." *Id.*

As discussed below, the UTC believes that several reporting requirements could be streamlined, and that the Commission should consider such changes in a rulemaking and not through a limited forbearance action.

**ARMIS Reporting Requirements Should Not Be Addressed
Through *Ad-Hoc* Forbearance Petitions, But Through a
Rulemaking Proceeding That Allows More Comprehensive Review**

Structural changes are occurring in the telecommunications industry and it is appropriate that legacy regulations be reviewed periodically to assess their continued

efficacy. However, the forbearance petition is a procedurally inappropriate vehicle for effecting generally applicable changes to the Commission's reporting requirements. As noted earlier, this petition is one of many petitions of similar intent filed by multiple incumbent carriers. The petition addresses issues that affect many reporting companies, and the ability of the FCC and state regulators to monitor them. For this reason, changes to the requirements should be addressed through a comprehensive and well-noticed rulemaking that looks at the industry as a whole, allows a more thorough consideration of the effect on the UTC and other state regulatory agencies that rely on ARMIS data, and, where appropriate, provides meaningful alternatives to state and federal regulators for obtaining necessary information.

Qwest tacitly concedes the value of at least some information contained in ARMIS reports when it suggests that the Commission conduct a rulemaking to expand form 477 reporting to additional telecommunications providers while abandoning existing ARMIS reporting applied to ILECs.¹⁶ While expanded form 477 reporting may be an interesting proposal, the fact that other companies would offer this as compensation for the loss of data resulting from forbearance shows, if nothing else, that the elimination of ARMIS reporting through a grant of forbearance now would be premature.

As currently reported, 477 data are less accessible to policymakers and consumers because of the confidentiality provisions that attend upon their use, as well as delay experienced between reporting the data and releasing the data to regulators other than the Commission.¹⁷ State commissions may get some access to 477 data by signing non-disclosure agreements, but the confidentiality requirement hamstrings efforts to apply the

¹⁶ Qwest Corrected Petition, pp. 6-7.

¹⁷ As of the date of these comments the most recent 477 data available on local telephony is from June 2006. See <http://www.fcc.gov/wcb/iatd/comp.html>

data to public policy concerns. It also limits states to receiving data for their state only, thus hampering comparison to data from other states or regions.

The ARMIS formats from which Qwest seeks forbearance are, by contrast, public information timely reported and easily accessible. To allow Qwest to avoid reporting in these formats would reduce the data available to the FCC and state regulators, with no other immediate source for that data. While consideration of an expanded form 477 has merit, such consideration should occur prior to any changes in the current reporting scheme. To forbear from enforcing the current reporting requirements prior to considering alternative ones simply puts the cart before the horse.

A thorough rulemaking would also allow consideration of the costs of alternatives, both to individual state commissions and, in turn, the regulated companies. For example, a distinguishing aspect of ARMIS reports is the ability to use the ARMIS extract feature to analyze industry-wide, regional, and state-wide information over multiple years, at an account or category level. Much of the comparative information available on ARMIS is not data that a carrier would likely be able to provide to an individual state commission if requested, especially other companies' data. State regulators have no other readily-available cost-effective source for this type of information when trying to compare a company's operations in their state with operations of other companies, or with that company's operations in other states.

UTC staff query the ARMIS data retrieval module frequently in developing analysis of issues relevant not only to traditional economic regulation but also consumer protection and quality of service. Rather than abandon this valuable tool, the

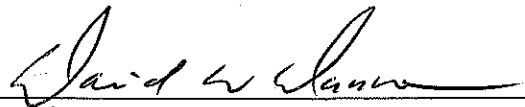
Commission should consider expanding the data retrieval module functions on its website to include other industry data such as form 477.

Conclusion

The UTC believes ARMIS reports, containing consistently reported and readily accessible data, further the public interest by providing support for critical state and federal policy considerations. They allow comparisons among states and among companies, and avoid numerous and costly state-specific reporting requirements. The benefits of the ARMIS reporting system are not limited to monitoring rate-of-return regulation, but inform regulators of trends in the telecommunications industry in a way that facilitates regulatory flexibility. It is not in the public interest to allow a dominant carrier in the western United States to be excused from its reporting obligations without a thorough review of the potential impacts and consideration of regulatory alternatives.

Accordingly, the UTC urges the Commission to deny the petition.

RESPECTFULLY submitted this 6th day of December, 2007.



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